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FOREIGN AFFAIRS PRO

NZ judge's Hong Kong role shows need for ethics overhaul – report

Foreign judges working in Hong Kong – including a Kiwi – are 'whitewashing an increasingly repressive and compromised legal system', says foundation

by **Sam Sachdeva**
12 hours ago

Former Supreme Court justice Sir William Young's decision to sit on the Hong Kong Court of Final Appeal has attracted criticism from some quarters. Photo composite: Courts of NZ/Getty Images

The country's top judge says new ethics rules may be needed for former members of the judiciary, with a new report raising further concerns about a retired Supreme Court judge's controversial decision to join a top Hong Kong court.

In June, Sir William Young was appointed as one of six foreign non-permanent judges on Hong Kong's Court of Final Appeal, having served on New Zealand's Supreme Court from 2010 until his retirement in 2022.

The Hong Kong court has been hit with a number of resignations after the Chinese government's decision in 2020 to impose its controversial national security law on the territory, with one British judge saying it was "slowly becoming a totalitarian state" after stepping down last year.

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Young sat in the court for the first time on Wednesday, having been sworn in by Hong Kong chief executive John Lee Ka-chiu at the start of the week.

A **new report** from the Committee for Freedom in Hong Kong Foundation said six foreign judges had resigned from the Court of Final Appeal since 2024, with some justices having participated in "politically charged rulings" on the pro-democracy campaigner Jimmy Lai and the barrister and human rights activist Chow Hang-tung.

"Although foreign judge participation in national security trials is now rare, their ongoing service still supports the system administering them."

The national security law, along with separate changes to the Hong Kong basic law, had led to the jailing of more than 1900 political prisoners since 2019. Extraterritorial repression by Beijing, including bounties on overseas Hong Kong activists and passport cancellations, had further suppressed people's civil liberties, the report said.

The participation of foreign judges in the Hong Kong system allowed authorities to "whitewash an increasingly repressive and compromised legal system, presenting a façade of judicial integrity to the international community while silencing pro-democracy voices and targeting activists both locally and abroad".

The foundation's report said the governments of Australia, Canada, New Zealand, and the United Kingdom should "actively discourage their citizens from taking positions on the Hong Kong courts", and bar anyone who did so from serving in public positions in their home countries because of the potential for conflicts of interest.

As four of the remaining six judges were from Australia and New Zealand, the Council of Chief Justices of Australia and New Zealand should also update its Judicial Guide to prohibit serving in territories like Hong Kong where the legal system had been "weaponised against democracy advocates".

Foundation director Mark Sabah told Newsroom that Young's "outrageous" decision to join Hong Kong's top court was the spur for the new report.

"His presence drags his own reputation and that of the New Zealand legal tradition he represents through the mud."

While governments could not control what retired public servants like Young did, Sabah said MPs “could make it very uncomfortable for him by speaking up in Parliament against his actions – we very much hope they do so”.

Former Supreme Court judge Sir William Young (right) pictured with Hong Kong chief executive John Lee Ka-chiu (centre) and Chief Justice Andrew Cheung Kui-nung (left). Photo: Hong Kong Court of Final Appeal

Australian lawyer and former Hong Kong resident Mark Tarrant also wrote to the council in April, also asking it to add a section prohibiting both current and former judges “from being employed by an authoritarian regime or administration where senior officials have been sanctioned for human rights abuses, unless authorised by the Attorney-General of Australia (or New Zealand)”.

Tarrant, who has represented pro-Hong Kong student activist Drew Pavlou in Australian proceedings, told Newsroom the presence of Australian and New Zealand judges within the Hong Kong judiciary “does give the impression of a two-tier approach to human rights”.

Hong Kong’s post-war success had been underpinned by the rule of law, which was now being destroyed by the Beijing-imposed national security law. He had been unable to attend his brother’s funeral in the territory in June, due to his fear of being arrested by authorities under the law.

Tarrant said there was little that could be done to stop retired judges from working in Hong Kong “unless their conscience tells them otherwise”, but amending judicial conduct guidelines would better articulate community values

and concerns.

Asked by Newsroom whether there was a need for new ethics guidelines on the matter, Chief Justice Helen Winkelmann noted New Zealand lacked clauses found in Australian guidelines that covered post-retirement conduct by the judiciary.

“I’m instituting a review of our guidelines, and that is something that I will be asking the reviewers to have regard to.

“There are some models throughout the world, but the reality is that once someone is past retirement age, we do not have any sort of control over those people.”

Justice Winkelmann said she was “always concerned about anything that impacts on the standing of the judiciary, or indeed upon New Zealand’s standing in international affairs”.

A spokesperson for Attorney-General Judith Collins said she was unavailable for comment, and a spokesperson for Foreign Minister Winston Peters referred Newsroom to the Ministry of Foreign Affairs and Trade.

A ministry spokesperson said of calls for new guidelines: “Individuals who sit as overseas non-permanent judges of the Hong Kong Court of Final Appeal are retired from the judiciary of their home countries, and they sit in their personal capacity.”

Sir William Young has previously refused to comment on criticism of his decision to join the court, beyond saying he “would not accept appointment to that Court unless satisfied it was proper for me to do so”.

Eleanor Boyce

10 hours ago

Must be a hard to resist carrot being dangled…

Peter Trolove

6 hours ago

This an appointment that will require Sir William to draw on all his resources; both his personal character and his life experience. Unencumbered by political control exerted by Wellington, Sir William has a unique opportunity to demonstrate the very best of “British Law”.
In the early 1980s I was a racing veterinarian in Macau. I was lucky to be mentored by the Chief Veterinarian who had access to all layers of society that existed in a decaying Portuguese colony whose economy was embedded in gambling. Macua was physically and politically joined by a land barrier to Communist China while having commercial connections to the major casinos of the Western World. The late Dr Peter Cheah proved to me that someone with intelligence and integrity is valued by all levels of society. This will prove Sir William’s shield in the fast paced colony of Hong Kong.
I wish him the best and hope his appointment succeeds for his sake and the sake of the residents of a British Colony cynically abandoned by Margaret Thatcher.

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